

House Bill 221 (AS PASSED HOUSE AND SENATE)

By: Representatives Willard of the 49th, Ralston of the 7th, Lindsey of the 54th, and Oliver of the 83rd

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 6 of Title 9 of the Official Code of Georgia Annotated, relating to extraordinary writs, so as to provide that no writ of mandamus or writ of prohibition to compel the removal of a judge shall issue where no motion to recuse has been filed in a timely manner or where a motion to recuse has been denied; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 6 of Title 9 of the Official Code of Georgia Annotated, relating to extraordinary writs, is amended by revising Code Section 9-6-20, relating to when mandamus may issue, as follows:

"9-6-20.

All official duties should be faithfully performed; and whenever, from any cause, a defect of legal justice would ensue from a failure to perform or from improper performance, the writ of mandamus may issue to compel a due performance; if there is no other specific legal remedy for the legal rights; provided, however, that no writ of mandamus to compel the removal of a judge shall issue where no motion to recuse has been filed, if such motion is available, or where a motion to recuse has been denied after assignment to a separate judge for hearing."

SECTION 2.

Said chapter is further amended by revising Code Section 9-6-40, relating to prohibition counterpart of mandamus, as follows:

"9-6-40.

The writ of prohibition is the counterpart of mandamus, to restrain subordinate courts and inferior judicial tribunals from exceeding their jurisdiction; where no other legal remedy or relief is given. The granting or refusal thereof is governed by the same principles of

26 right, necessity, and justice as apply to mandamus; provided, however, that no writ of
27 prohibition to compel the removal of a judge shall issue where no motion to recuse has
28 been filed, if such motion is available, or where a motion to recuse has been denied after
29 assignment to a separate judge for hearing."

30 **SECTION 3.**

31 All laws and parts of laws in conflict with this Act are repealed.